

## **REMARKS**

Claims 1-14 and 19 are present in the instant application. At the outset, Applicant gratefully acknowledges the indication of allowable subject matter in claims 10 and 19. As amended above, claims 10 and 19 are amended into independent form, including the features recited in underlying independent claims 8 and 18 respectively. Early and favorable indication of allowability of claims 10 and 19 is kindly requested.

In the Office Action, claims 1-8 and 13-14 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,687,802 to Kori, et al. (hereinafter, "Kori"). Claims 9, 11-12 and 18 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Kori in view of U.S. Patent No. 6,314,518 to Linnartz (hereinafter, "Linnartz"). Claims 5 and 16 are objected to for minor informalities.

As amended above, claims 15-18 are cancelled without disclaimer or prejudice to their subsequent reintroduction in this or a continuing application. Claim 5 is amended as indicated by the Examiner to correct an editorial oversight. No disclaimer of subject matter or alteration of the scope of claim 5 is intended by this amendment. Favorable reconsideration and withdrawal of the informality objection is kindly requested. Further, claims 8-14 and 19 are amended to remove the reference to merely image content data, and to recite content data more generally, consistent with the specification. No new matter has been added.

Tuning to the rejections, Applicant respectfully traverses the rejections for at least the following reasons. Claim 1 recites an image data processing device for processing an input image content data to produce an output image content data comprising, *inter alia*, detector for detecting a permission limiting watermark from the input image content data. The Office Action alleges such an apparatus to be taught by Kori, specifically at Fig. 3 and its accompanying

description. Applicant respectfully disagrees.

Kori addresses both SCMS (Serial Copy Management System) and CGMS (Copy Generation Management System) embodiments, the latter of which is addressed in the background of the instant specification. More specifically, Kori discloses that additional information is carried in music data (Col. 8, lines 20-26), not image data as recited in the claim. It has been held by the courts that “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984).

Therefore, Applicant respectfully submits that Kori does not anticipate claim 1. Claims 2-7 and 13 each depend, either directly or indirectly, from claim 1. These dependent claims are each separately patentable, but are offered as patentable for at least the same reason as their underlying independent base claim. Therefore, Applicant respectfully submits that the rejection of claims 1-7 and 13 has been obviated, and kindly requests favorable reconsideration and withdrawal.

Referring now to independent claim 8, this claim recites a data processing device for processing an input content data, to produce an output content data, the device comprising, *inter alia*, first and second detectors for detecting a watermark in the input content data, the second detector for detecting an additional watermark from the input content data, wherein the additional watermark is inserted when an original content is copied, the device further comprising a controller for producing the output content data from the input content data when a permission limiting watermark and the additional watermark are both detected, and prohibiting production of the output content data when the permission limiting watermark is detected and the

additional watermark is not detected. The Office Action avers these features to be taught in Kori. Applicant respectfully disagrees.

In contrast to claim 1, claim 8 does not recite processing image content data, and instead recites content data more generally. The Office Action avers that Kori teaches such a second watermark detecting apparatus at ref. 44 of Fig. 3. However, Kori teaches ref. 44 is an additional information detection section that operates on a copy 200 of the content data already made (Col. 9, lines 17-18, 23-28). Therefore, any control means disclosed in Kori cannot operate in response to a second watermark detection 44 to permit or prohibit the production of output data, since the operation of detection section 44 requires a copy having already been made. Therefore, Kori does not teach all features recited in claim 8. Applicant respectfully submits that the claim is patentably distinguished over Kori.

Turnig now to the rejection of claims 9 and 11-12, the Office Action offers Linnartz in combination with Kori. Presuming, *arguendo*, that Linnartz teaches what is attributed to it, and that there is some objective motivation for one of ordinary skill in the art to combine the two references, Linnartz does not, nor is it alleged to, offer any teaching or suggestion to ameliorate the deficiencies of Kori with respect to claims 1 and 8 as described above. It has been held by the courts that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See, In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Therefore, Applicant respectfully submits that claims 9, 11 and 12 are patentably distinguished over Kori and Linnartz, taken singly or in combination. Favorable reconsideration and withdrawal of the rejection is kindly requested.

In light of the foregoing, Applicant respectfully submits that all claims recite patentable subject matter, and kindly solicits and early and favorable indication of allowability of all claims.

If the Examiner has any reservation in allowing the claims, and believes that a telephone interview would advance prosecution, she is kindly requested to telephone the undersigned at her earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David J. Torrente", with a stylized flourish extending from the end.

David J. Torrente  
Registration No. 49,099

SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza - Ste. 300  
Garden City, New York 11530  
(516) 742-4343

DJT:nf